

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 21-10 (DWF/ECW)

Civil No. 22-3115 (DWF)

Respondent-Plaintiff,

v.

**MEMORANDUM
OPINION AND ORDER**

Russell James Anderson-Baldwin,

Petitioner-Defendant.

This matter is before the Court on Defendant Russell James Anderson-Baldwin's *pro se* motion to appoint counsel (Doc. No. 82) and *pro se* motion for extension of time (Doc. No. 83). Having considered the motions and all the files, records, and proceedings herein, the Court denies Defendant's motion to appoint counsel and grants Defendant's request for an extension of time to reply to the Government's response brief.

There is no constitutional or statutory right to counsel in post-conviction proceedings. *McCall v. Benson*, 114 F.3d 754, 756 (8th Cir. 1997). But the Court may, in its discretion, appoint counsel in a § 2255 case when "the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B). The Eighth Circuit "has identified several factors to guide a district court when it evaluates whether a petitioner needs court appointed counsel," including "the factual and legal complexity of the case, and the petitioner's ability both to investigate and to articulate his claims without court appointed counsel." *McCall*, 114 F.3d at 756 (citations omitted). Having considered these factors, the Court concludes that Defendant has demonstrated his ability to articulate his claims and the

interests of justice do not support the appointment of counsel at this time. If, however, the Court grants an evidentiary hearing related to Defendant's § 2255 motion, then the Court will appoint Defendant counsel at that time. Rule (8)(c) of the Rules Governing § 2255 Proceedings; *Green v. United States*, 262 F.3d 715, 716 (8th Cir. 2001).

Finally, the Court will grant Defendant's request for an extension of time to reply to the Government's response brief.

ORDER

Based upon the record before the Court, and the Court being otherwise duly advised in the premises, **IT IS HEREBY ORDERED** that:

1. Defendant Russell James Anderson-Baldwin's motion to appoint counsel (Doc. No. [82]) is **DENIED**.
2. Defendant Russell James Anderson-Baldwin's motion for extension of time (Doc. No. [83]) is **GRANTED**.
3. Defendant Russell James Anderson-Baldwin may file a reply to the Government's response by August 4, 2023.

Dated: April 27, 2023

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge